

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BLUE GENTIAN, LLC, et al.,

Plaintiffs,

V.

TELEBRANDS CORPORATION, et al.,

Defendants.

Civil No. 13-4627(FSH)

ORDER

May 20, 2014

HOCHBERG, District Judge:

This matter comes before the Court upon Magistrate Judge Clark’s Report and Recommendation recommending that this Court deny Defendant Telebrands’ Motion to Dismiss the claims asserted by National Express, Inc. for lack of standing and Strike Plaintiffs’ pleadings under Fed. R. Civ. P. 12(f) for improperly referencing patent claim charts in the Complaint; and

Telebrands having filed an objection to the Report and Recommendation, arguing that the Report and Recommendation (1) misconstrued the ill-defined and overlapping fields of use defined in the license agreement, (2) improperly relied on National Express’s reciprocal rights within Blue Gentian’s reserved fields of use, and (3) improperly discounted the significance of the “Australia and New Zealand Licenses;” and the Court having reviewed Telebrands’ objection to the Report and Recommendation; and the Court finding that Telebrands’ objection is without merit because Magistrate Judge Clark, in a very thorough and comprehensive Report and Recommendation, properly construed the fields of use as set forth in the licensing agreement and correctly determined that National Express, Inc., as a field of use licensee, has the right to

exclude Telebrands in the markets in which it is licensed, and that the foreign licensing agreements are irrelevant to Plaintiffs' rights to enforce the U.S. patents; and this Court having reviewed *de novo* the Report and Recommendation; and good cause appearing;

It is on this 20th day of May, 2014,

ORDERED that the Report and Recommendation of Magistrate Judge Clark is **ADOPTED** [docket # 68] as the Opinion of this Court; and it is further

ORDERED that Telebrands' Motion to Strike Plaintiffs' Complaint and Dismiss Claims asserted by National Express, Inc. [docket # 23] is **DENIED**.

s/ Faith S. Hochberg
Faith S. Hochberg, U.S.D.J.